

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

In re:

THE FINANCIAL OVERSIGHT AND
MANAGEMENT BOARD FOR PUERTO RICO,

as representative of

THE COMMONWEALTH OF PUERTO RICO, *et al.*

Debtors.¹

PROMESA
Title III

Case No. 17-BK-3283-LTS

(Jointly Administered)

Re: ECF No. 8244

**URGENT JOINT MOTION OF OVERSIGHT BOARD AND
AAFAF FOR ORDER EXTENDING (A) STAY PERIOD, (B) MANDATORY
MEDIATION, AND (C) CERTAIN DEADLINES RELATED THERETO**

To the Honorable United States District Court Judge Laura Taylor Swain:

The Commonwealth of Puerto Rico (the “Commonwealth”), by and through the Financial Oversight and Management Board for Puerto Rico (the “Oversight Board”), as the Debtors’ representative in these Title III Cases pursuant to section 315(b) of the *Puerto Rico Oversight, Management, and Economic Stability Act* (“PROMESA”),² and the Puerto Rico Fiscal Agency and Financial Authority (“AAFAF,” and together with the Oversight Board, “Movants”), respectfully submit this joint urgent motion (the “Urgent Motion”) requesting entry of an order,

¹ The Debtors in these Title III Cases, along with each Debtor’s respective Title III case number and the last four (4) digits of each Debtor’s federal tax identification number, as applicable, are the (i) Commonwealth of Puerto Rico (Bankruptcy Case No. 17-BK-3283-LTS) (Last Four Digits of Federal Tax ID: 3481); (ii) Puerto Rico Sales Tax Financing Corporation (“COFINA”) (Bankruptcy Case No. 17-BK-3284-LTS) (Last Four Digits of Federal Tax ID: 8474); (iii) Puerto Rico Highways and Transportation Authority (“HTA”) (Bankruptcy Case No. 17-BK-3567-LTS) (Last Four Digits of Federal Tax ID: 3808); (iv) Employees Retirement System of the Government of the Commonwealth of Puerto Rico (“ERS”) (Bankruptcy Case No. 17-BK-3566-LTS) (Last Four Digits of Federal Tax ID: 9686); (v) Puerto Rico Electric Power Authority (“PREPA”) (Bankruptcy Case No. 17-BK-4780-LTS) (Last Four Digits of Federal Tax ID: 3747); and (vi) Puerto Rico Public Buildings Authority (“PBA”) (Bankruptcy Case No. 19-BK-5233-LTS) (Last Four Digits of Federal Tax ID: 3801) (Title III case numbers are listed as Bankruptcy Case numbers due to software limitations).

² PROMESA is codified at 48 U.S.C. §§ 2101-2241.

substantially in the form annexed hereto as **Exhibit A** (the “Proposed Order”), (a) extending the stay of certain adversary proceedings and contested matters as provided for on Appendix I in the *Order Regarding Stay Period and Mandatory Mediation* [ECF No. 8244] (the “Stay Order”) from November 30, 2019 to December 31, 2019, (the “Stayed Proceedings”)³, (b) extending mandatory mediation to permit the parties to continue to participate in discussions and communications facilitated by the Honorable Barbara J. Houser and the Honorable Roberta Colton (the “Mediation Team”), and (c) extending certain dates and deadlines related thereto. In support of this Urgent Motion, Movants respectfully state as follows:

Background

1. On June 24, 2019, the Court entered the Stay Order staying the Stayed Proceedings to November 30, 2019 “[i]n order to avoid piecemeal litigation of potentially overlapping key issues, and in an effort to identify efficiently the issues that must be litigated or otherwise resolved to achieve confirmation of a plan of adjustment for the Commonwealth (and other debtors and potential debtors in Title III proceedings), as well as to prioritize such issues and develop efficient approaches to the resolution of such issues.” Stay Order at 1.

2. Consistent with the Stay Order, and under the auspices of the Mediation Team, parties have been engaged in mediation sessions in an effort, among other things, to carry out the Stay Order.

3. On September 27, 2019, the Oversight Board filed a proposed plan of adjustment [ECF No. 8765] (the “Plan”) and proposed disclosure statement [ECF No. 8766] for the Commonwealth.

³ To the extent not otherwise addressed pursuant to subsequent orders of the Court.

4. The Mediation Team and the parties in interest continue to meet about the Plan and litigation related issues.

Jurisdiction and Venue

5. The United States District Court for the District of Puerto Rico (the “Court”) has subject-matter jurisdiction over this matter pursuant to PROMESA § 306(a).

6. Venue is proper pursuant to PROMESA § 307(a).

Relief Requested

7. To facilitate progress on Plan issues and scheduling of the Stayed Proceedings, Movants respectfully request entry of an order extending the Stay and certain dates and deadlines in connection therewith as follows:

Event	Current Date	Proposed Date
Deadline for the Mediation Team to file the Report ⁴	October 28, 2019	November 27, 2019
Responses and objections to the Report	November 4, 2019	December 4, 2019
Hearing to consider: (i) approval of any proposed scheduling order facilitated by the Mediation Team, (ii) the Report, if filed, and any responses and objections thereto, and (iii) the extent, if any, to which any or all of the Stayed Proceedings shall be further stayed	November 14, 2019 at 9:30 A.M.	December 11, 2019 at 9:30 A.M.
Expiration of the Stay	November 30, 2019	December 31, 2019

Basis for Relief

8. The relief requested herein is consistent with Bankruptcy Code section 105(a), Bankruptcy Rule 9006(b), and the Court’s inherent power to control the disposition of cases on its docket. As this Court has recognized, “the power to stay proceedings is incidental to the power

⁴ Capitalized terms used but not defined herein shall have the meaning given to them in the Stay Order.

inherent in every court to control the disposition of the causes on its docket with economy of time and effort for itself, counsel, and for litigants.” *In re Fin. Oversight & Mgmt. Bd. for Puerto Rico*, 335 F. Supp. 3d 256, 262 (D.P.R. 2018) (quoting *Landis v. N. Am. Co.*, 299 U.S. 248, 254 (1936)). “Generally, courts have the discretionary power to stay an action in the interest of justice and efficiency.” *Id.* (quoting *Total Petroleum P.R. Corp. v. T.C. Oil, Corp.*, 2010 WL 11545626, at *1 (D.P.R. May 7, 2010)). The court must balance the equities and potential prejudice to each party. *Id.* (internal quotations and citations omitted).

9. Good cause exists to grant the requested relief. Under the direction of the Mediation Team, numerous parties to the mediation process are continuing to work toward reaching an agreement that could resolve or make more efficient a significant number of the Stayed Proceedings. The process is multifaceted, complex, and involves input from numerous parties, and requires the evaluation of myriad legal issues pertaining to the Stayed Proceedings and the current and projected economic condition of Puerto Rico. Thus, Movants believe the parties require a modest extension of the Stay from November 30, 2019 to December 31, 2019.

10. Moreover, absent the requested extension of deadlines, the Mediation Team must file its Report by October 28, 2019 setting forth the procedural issues as to which there is some, but not entire consensus, making further procedural recommendations, and recommending an appropriate schedule for the disposition of the Stayed Proceedings. If the Report were filed currently, it could cause the partial or whole cessation of mediation while parties focus their attention on preparing the mediation parties’ responses or objections to the Report by November 4, 2019. More importantly, it may cause parties to retreat to their respective corners and take a litigation stance rather than a negotiation posture.

11. The Mediation Team and all Mediation parties were advised of this motion. In light of the circumstances above, Movants respectfully submit the equities weigh in favor of the relief requested and that the relief requested is unlikely to prejudice other parties, who will benefit from additional time to participate in the mediation process.

No Prior Request

12. No prior request for the relief sought in this Urgent Motion has been made to this or any other court.

Local Rule 9013-1 Certification

13. Pursuant to Local Rule 9013-1 and paragraph I.H of the Case Management Procedures, Movants hereby certify that they have (a) carefully examined the matter and concluded that there is a true need for an urgent motion, (b) not created the urgency through a lack of due diligence, and (c) made reasonable, good faith communications in an effort to resolve or narrow the issues being brought to the Court,

[Remainder of page intentionally left blank]

WHEREFORE Movants respectfully request the Court enter the Proposed Order attached as **Exhibit A**, granting the relief requested herein and all other relief as is just and proper.

Dated: October 24, 2019
San Juan, Puerto Rico

Respectfully submitted,

/s/ Martin J. Bienenstock

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CERTIFICATE OF SERVICE

I hereby certify that, on this same date, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notifications of such filing to all CM/ECF participants in this case.

/s/ Hermann D. Bauer
Hermann D. Bauer

EXHIBIT A

Proposed Order

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

In re:

THE FINANCIAL OVERSIGHT AND
MANAGEMENT BOARD FOR PUERTO RICO,

as representative of

THE COMMONWEALTH OF PUERTO RICO, *et al.*

Debtors.¹

PROMESA
Title III

Case No. 17-BK-3283-LTS

(Jointly Administered)

Re: ECF No. 8244

**[PROPOSED] ORDER EXTENDING
STAY PERIOD AND MANDATORY MEDIATION**

Upon the *Urgent Joint Motion of the Oversight Board and AAFAF to Extend (a) Stay Period, (b) Mandatory Mediation, and (c) Certain Deadlines Related Thereto* (the “Urgent Motion”);² and the Court having found it has subject-matter jurisdiction over this matter pursuant to PROMESA section 306(a); and it appearing that venue in this district is proper pursuant to PROMESA section 307(a); and the Court having found that the Movants provided adequate and appropriate notice of the Urgent Motion under the circumstances and that no other or further notice is required; and upon the record herein, after due deliberation thereon, the Court having found that good and sufficient cause exists for the granting of the relief as set forth herein,

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² Capitalized terms not otherwise defined herein shall have the meanings given to them in the Urgent Motion.

IT IS HEREBY ORDERED THAT:

1. The Urgent Motion is GRANTED as set forth herein.
2. If the parties cannot agree or come to substantial agreement with respect to scheduling orders and other matters, the Mediation Team shall file the Report by **November 27, 2019**.
3. If a Report is filed by the Mediation Team, any responses or objections to the Report shall be filed by **December 4, 2019**.
4. A hearing to consider: (i) approval of any proposed scheduling order facilitated by the Mediation Team, (ii) the Report, if filed, and any responses and objections thereto, and (iii) the extent, if any, to which any or all of the matters listed in Appendix I of the Stay Order shall be further stayed, is hereby set for **December 11, 2019 at 9:30 A.M. in New York**.
5. The proceedings and contested matters listed in Appendix I of the Stay Order are stayed until **December 31, 2019**.³
6. This Order is without prejudice to parties seeking a further extension of the periods provided for herein.
7. The Court shall retain jurisdiction to hear and determine all matters arising from the implementation of this Order.

Dated: _____, 2019

HONORABLE LAURA TAYLOR SWAIN
United States District Judge

³ To the extent such proceeding or matter has not otherwise been addressed pursuant to an order of the Court subsequent to entry of the Stay Order.